



DEPARTMENT OF THE NAVY
OFFICE OF THE GENERAL COUNSEL
720 KENNON STREET SE RM 214
WASHINGTON NAVY YARD DC 20374-5012

JUL 21 2015

U.S. REGULAR MAIL AND CERTIFIED MAIL – RETURN RECEIPT REQUESTED

James T. Wells

(b) (6)

SUBJECT: NOTICE OF THE DEBARMENT OF JAMES T. WELLS¹

Dear Mr. Wells:

Effective this date, you, James T. Wells¹, are debarred from Government contracting and from directly or indirectly receiving the benefits of Federal assistance programs. This action is initiated pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4, Department of Defense FAR Supplement 209.4 and Appendix II, and 2 C.F.R. Part 1125. The effects of debarment are set forth in the Notice of Proposed Debarment, incorporated here by reference, as well as in the aforementioned regulations.

On March 23, 2015, the Department of the Navy (DON) Suspending and Debarring Official (SDO) issued you (hereinafter "Wells") a Notice of Proposed Debarment from contracting with the Federal Government. That Notice, incorporated herein by reference, afforded you the opportunity to submit information and argument in opposition to the proposed debarment. The United States Postal Service Certified Mail date of receipt of that Notice was April 6, 2015. By E-mail on April 11, 2015, you submitted matters in opposition (MIO) to the Proposed Debarment, discussed below.

INFORMATION IN THE ADMINISTRATIVE RECORD

The Administrative Record establishes the following by a preponderance of evidence:

1. At all times pertinent in this matter, Wells was a government contractor working on contracts awarded by the Department of the Air Force and Department of the Navy.

2. Wells was employed by (b) (4) in support of the (b) (4) (b) (4)

3. In (b) (4), the (b) (4) Ethics Office received a credible report that Wells was engaging in (b) (4) resulting in (b) (4) (b) (4)

¹ This proposed debarment also applies to your known alias: James Wells.

4. As part of its investigation (b) (4) determined that Wells (b) (4) improperly, including (b) (4) an Air Force program. (b) (4) while working on other programs, including Navy contract (b) (4) and, by (b) (4) also determined that Wells (b) (4) for (b) (4)
5. The investigation revealed that Wells (b) (4) affected multiple contracts performed by (b) (4) totaling \$51,168.41 in (b) (4) determined that the most impacted contract was (b) (4) issued contract for (b) (4) (b) (4) and (b) (4) \$51,168.41 (b) (4) contract, effective (b) (4)
6. As a result of his misconduct (b) (4) Mr. Wells' (b) (4) with the (b) (4) same date.
7. On (b) (4) disclosed the misconduct of Wells to the Department of Defense, Office of the Inspector General, pursuant to the Mandatory Disclosure Program, as required under FAR clause 52.203-13.
8. As the result of the disclosure, the DON proposed that Wells be debarred from contracting with the Government for the reasons set forth in the Notice of Proposed Debarment of James T. Wells of March 23, 2015. The Notice is incorporated herein by reference.
9. On (b) (4) Wells responded to the Notice of Proposed Debarment, stating that he committed no wrong doing, that (b) (4) did not (b) (4) (b) (4) His Matters In Opposition (MIO) are discussed in detail below.
10. On (b) (4) provided comments on Wells' MIO, maintaining that Wells was no (b) (4) (b) (4) and that the (b) (4) (b) (4) Additional details are provided below.

2 The (b) (4) Disclosure Report of (b) (4) refers to Mr. Wells (b) (6) "...with (b) (4) (b) (4) however, he (b) (4) in separate correspondence, Ms. (b) (4) Assistant General Counsel, provided that (b) (4) referred to the (b) (4) (b) (4) Air Force program. Additionally, she provide that (b) (4) (b) (4) business unit and (b) (4) (b) (4) program. This information was provided upon request to clarify the acronyms used in the Disclosure Report.

MATTERS IN OPPOSITION

In response to the proposed debarment, Wells submitted a written response by E-mail on (b) (4) hereinafter referred to as Matters In Opposition (MIO). Wells asserts as MIO to the Proposed Debarment the following:

1. That there "...was no wrongdoing on his part for (b) (4) (b) (4) contracts." He asserts that (b) (4) (b) (4) because (b) (4) He further states (b) (4) and that (b) (4) Once the (b) (4) And: (b) (4)
2. In addressing issues of (b) (4) Wells states (b) (4) which (b) (4) He states (b) (4) "...almost (b) (4) " to accomplish what was needed to be done to complete the contracts.

(b) (4) Office of General Counsel reviewed Wells' MIO assertions and noted the following:

1. That Wells (b) (4) while (b) (4) Further, any (b) (4) result of (b) (4) was warranted by the findings.

ANALYSIS

The FAR 9.406-1(a) provides: "It is the debarring official's responsibility to determine whether debarment is in the Government's interest. The debarring official may, in the public interest, debar a contractor for any of the causes in 9.406-2, using the procedures in 9.406-3." Before arriving at a debarment decision, the debarment official should consider the seriousness of the contractor's actions or omissions, as well as remedial measures and mitigating factors. FAR § 9.406-1(a).

Mitigating Factors or Remedial Measures

"[T]he contractor has the burden of demonstrating, to the satisfaction of the debarring official, its present responsibility and that debarment is not necessary" where the evidence establishes the existence of a cause for debarment. FAR 9.406-1(a). The focus of a present responsibility inquiry is to determine whether the contractor possesses the requisite business integrity and honesty necessary to be trusted to contract with the Government. In assessing a contractor's present responsibility, FAR subpart 9.406-1 instructs that, "[t]he existence of a cause for debarment, however, does not necessarily require that the contractor be debarred; the seriousness of the contractor's acts or omissions and any remedial measures or mitigating factors should be considered in making any debarment decision."

Before reaching a debarment decision, I carefully considered your MIO submission and explanation of the events that Raytheon alleges are the misconduct for which your employment was terminated and resulted in alleged mischarged costs being transferred to an unallowable cost account, vis-à-vis the factors set forth in FAR 9.406-1(a)—describing factors a Debarring Official should consider before arriving at a debarment decision. Accordingly, based on the factors described in FAR 9.406-1(a), I have made the following evaluations:

- (a)(1) Were effective standards of conduct and internal control measures addressed?

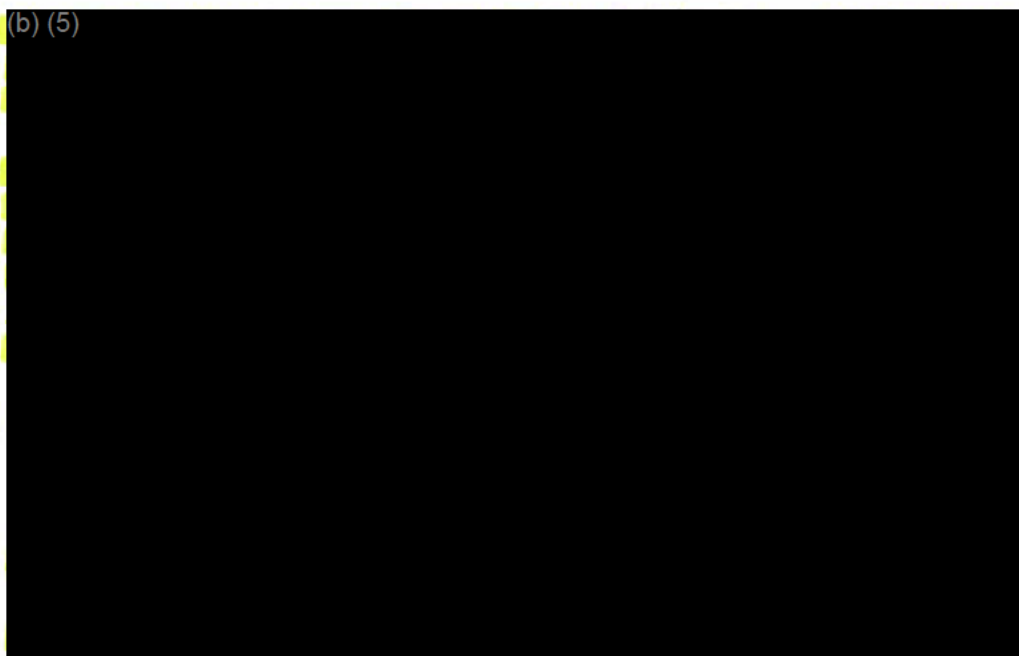
(b) (5) However, Wells states that he did not engage in any wrongdoing by (b) (4) on the (b) (4) (b) (4) due to the (b) (4) (b) (4) and that (b) (4) (b) (4) He asserts there was an (b) (4) (b) (4) It is noted that (b) (4) refutes this assertion and maintains that (b) (4) (b) (4) As a result, (b) (4), (b) (5)

- (a)(2) Did the contractor (Wells) bring the activity cited as a cause for debarment to the attention of the appropriate Government agency in a timely manner?

The administrative record (b) (5) that Wells (b) (5) or (b) (4) Wells asserts that (b) (4) (b) (4) These assertions were made by Wells (b) (4) and were known by (b) (4) at the time of (b) (4) (b) (4) however, (b) (4) refutes these assertions and maintains that Wells (b) (4) and that the (b) (5) (b) (5) are appropriate.

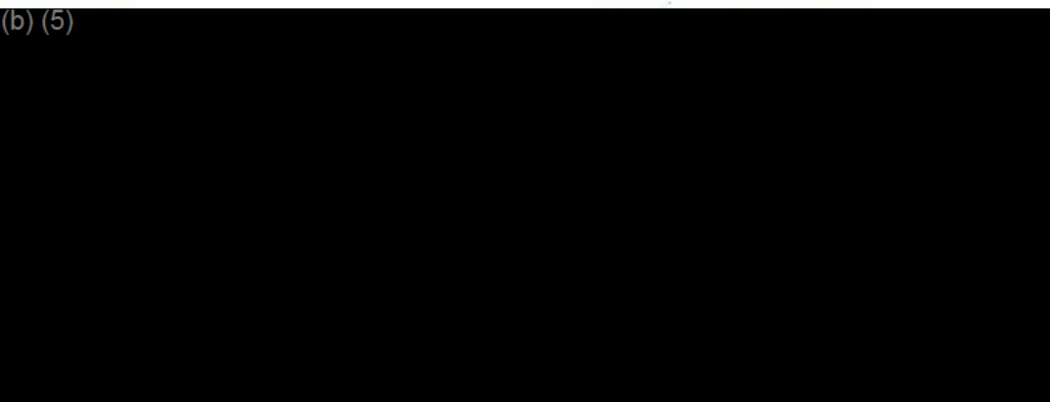
- (a)(3) Did the contractor fully investigate the circumstances surrounding the cause for debarment, and make the result of the internal investigation available?

➤ (b) (5)




- (a)(4) Did the contractor cooperate fully with government agencies?

➤ (b) (5)



- (a)(5) Did the contractor pay or agree to pay all criminal, civil, and administrative liability for the improper activity, including any investigative or administrative costs incurred by the Government?

➤ (b) (5)



(b) (5)

(b) (5)

- (a)(6) Did the contractor take appropriate disciplinary action against the individual responsible for the misconduct?

(b) (5)

- (a)(7) Did the contractor agree to implement remedial measures, including any identified by the Government?

(b) (5)

- (a)(8) Did the contractor agree to implement new or revised review and control procedures and ethics training programs?

- (a)(9) Has the contractor had adequate time to eliminate the circumstances within the contractor's organization that led to the cause for debarment?

- (a)(10) Does the contractor's management recognize and understand the seriousness for the misconduct giving rise to the cause for debarment and has implemented programs to prevent recurrence?

Findings

The administrative record in this case contains sufficient evidence to support Wells' debarment. I have carefully considered Wells' MIO against

(b) (5)

(b) (5) (b) (5)

(b) (5)

The DON and Department of Defense must be protected from contractors and individuals who misuse Government contracts and (b) (5) causing costs that are not justified or earned to be improperly charged to contracts funded with public funds. As such, I find that a debarment period of one year to be appropriate in this case.

CONCLUSION

Having carefully considered the Administrative Record, including your submission in opposition to the Proposed Debarment, I find the following: (1) the requisite evidence establishes cause for debarment; (2) you have not demonstrated your present responsibility; and (3) debarment is in the public interest and necessary to protect the Government's interests.

Pursuant to the authority granted by FAR Subpart 9.4, Defense FAR Supplement Subpart 209.4 and Appendix H, and 2 C.F.R. Part 1125, and based on the evidence contained in the Administrative Record and the findings herein, I have determined that a one year debarment term is appropriate and commensurate with the seriousness of the cause for debarment.

The debarment is effective immediately. The debarment period will run from the date of the Proposed Debarment, March 23, 2015, and will terminate on March 23, 2016.

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Catherine L. Kessmeier
Suspending and Debarring Official
Assistant General Counsel
(Acquisition Integrity)